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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,486	03/30/2004	Shervin Moloudi	15420US01	4921
23446 7590 03/06/2008 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER DAGLAWI, AMAR A	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 03/06/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/813,486	Applicant(s) MOLOUDI, SHERVIN	
	Examiner Amar Daglawi	Art Unit 2618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12/18/2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) ~~extension~~ (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-40.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues with respect to claim 1 that Sowadski fails to teach the claimed limitation of "generating a signal at a particular frequency, the signal being associated with a harmonic frequency signal disposed at a harmonic frequency". The Examiner respectfully traverses applicant's arguments. The Examiner according to MPEP 2111 applies the broadest reasonable interpretation, without limiting the scope of the claim, to the claimed limitations without incorporating limitations of the disclosure into the claimed language. Therefore, a person of ordinary skill in the art understands that the mixers employed into the superheterodyne receiver of Sowadski of Fig.1 are non-linear devices which in term means that harmonics of the input signals and of the local oscillator signal are generated during the mixing process. A signal which is the local oscillator signal is being generated due to frequency synthesis and harmonics of the local oscillator signal is being generated due the mixing process by the non-linear mixing devices (please see, col.1, lines 1-21). Thus, given the broadest reasonable interpretation to the claim Sowadski does teach "generating a signal at a particular frequency, the signal being associated with a harmonic frequency signal disposed at a harmonic frequency". Moreover, the applicant argues that Sowadski fails to teach the preamble "a method of reducing phase noise". The Examiner is to follow the practices and procedures according to MPEP 2111.02, in which the preamble statement reciting purpose or intended use doesn't further limit the claim. The body of the claim fully and intrinsically sets forth all the limitations of claimed invention and the preamble merely states the purpose or intended use of the invention, rather than a distinct definition of any of the claimed invention's limitations. Thus the preamble is not considered a limitation and there is no significance to claim construction. The combination of Sowadski and Otto is proper because the bandpass filter (attenuator) doesn't serve to translate any frequencies and thus no incorrect IF's are generated by the mixers. Independent claims 1, 21, and 31 are rejected for the same reason as stated above and all dependent claims from 1, 21, and 31 are rejected for the same reason



02-28-08

LANA LE
PRIMARY EXAMINER